

CR No.4150 of 2023 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(122)

CR No.4150 of 2023 (O&M)
Date of Decision:26.07.2023.

Rajeev Kumar

.....Petitioner

Versus

Ayush Sapra

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Paramjeet Phor, Advocate
for the petitioner.

VIKRAM AGGARWAL, J. (ORAL)

1. The present revision petition assails the order dated 11.11.2022 passed by the Rent Controller, Pataudi, vide which eviction of the present petitioner was ordered on account of non-payment of provisional rent and the judgment dated 15.05.2023 passed by the Appellate Court, Gurugram, vide which the appeal filed by the present petitioner against the said order dated 11.11.2022 passed by the Rent Controller, Pataudi, was dismissed.

2. The facts, as emanating from the record are that an eviction petition was filed by the respondent-landlord under Section 13 of the Haryana Urban Control of Rent and Eviction Act, 1973 (hereinafter referred to 'the 1973 Act') for eviction of the petitioner-tenant from the premises in dispute which is stated to be a 7 Marlas house situated in Pataudi (District Gurugram). Vide order dated 27.10.2022, the provisional rent was assessed at ₹14,36,671.833/- which was directed to be paid within a period of fifteen days i.e., on or before 11.11.2022.

Since the same was not paid, order of eviction dated 11.11.2022 was passed. An

appeal was preferred by the present petitioner which was also dismissed on 15.05.2023, leading to the filing of the present revision petition.

3. Learned counsel for the petitioner has submitted that the petitioner is a doctor having a nursing home constructed on the ground-floor of the disputed premises. He submits that there were family relations between the parties and he had already tendered some rent which had been agreed to be spent on the improvement of the property, but the same was never done. Learned counsel submits that the impugned orders are not sustainable.

4. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

5. As per the order dated 27.10.2022, provisional rent was assessed at ₹14,36,671.833/-, which was to be paid by 11.11.2022. However, on 11.11.2022 it was stated by the Rent Controller, while learned counsel representing the petitioner-tenant that he had no instructions from his client to make any payment of the provisional rent and he sought an adjournment. However, the learned Rent Controller, relying upon the judgment of the Hon'ble Apex Court in the case of ***Rakesh Wadhawan and others Vs. M/s Jagdamba Industrial Corporation and others, 2002(1) RCR (Rent)514: (2002) 5 SCC 440***, ordered the eviction of the petitioner-tenant from the disputed premises. A direction was issued to him to vacate the same within a period of one month. In the appeal also no payment was made and accordingly, while relying upon the judgment of the Hon'ble Apex Court in ***Rakesh Wadhawan*** (supra), the order passed by the Rent Controller was upheld. I find no jurisdictional error in the orders passed by the Courts below since it is no longer *res integra* that in the case of non-deposit of the provisional rent as

assessed by the Rent Controller, the tenant has to be evicted from the disputed premises.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

July 26th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.